

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DARRYL D. LOYD,)	
Plaintiff,)	
v.)	Civil Action File No: 1:06 CV 1735
PACIFIC SPECIALTY)	
INSURANCE COMPANY,)	
Defendant.)	

DEFENDANT'S INITIAL DISCLOSURES

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure responses.

RESPONSE

Defendant Pacific Specialty Insurance Company ("PSIC") is properly identified.

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

RESPONSE

Frederick Lance Montgomery, c/o Montgomery Insurance Agency. There is no question of misjoinder of parties.

(3) Provide a detailed factual basis for the defense or defenses and any counterclaims asserted by defendant in the responsive pleading.

RESPONSE

Defendant Pacific Specialty Insurance Company insured Plaintiff Darryl D. Loyd under a policy of insurance. On or about April 5, 2005, Plaintiff Loyd suffered a fire loss to his dwelling. Plaintiff Loyd made a claim for damages to Defendant Pacific Specialty Insurance Company. Defendant Pacific Specialty Insurance Company contends that the insurance policy sued upon is void due to misrepresentations committed in the application.

Defendant Pacific Specialty Insurance Company further contends that Plaintiff's claim is barred by the relevant statute of limitations.

Also, Defendant Pacific Specialty Insurance Company contends that it has acted in good faith and that Plaintiff's claim for defamation fails due to the truth of matters asserted, lack of publication.

(4) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which defendant contends are applicable to this action.

RESPONSE

Defendant PSIC contends that the contract sued upon is void ab initio due to misrepresentation committed in the application, O.C.G.A. § 33-24-7(b). Defendant PSIC further contends that Plaintiff Loyd has failed to procedurally or substantively state a claim for bad faith under O.C.G.A. 33-4-6. Defendant PSIC further contends that Plaintiff Loyd's claim for defamation must fail as this is a privileged communication as found under O.C.G.A. § 51-5-7. In addition, Defendant PSIC contends that Plaintiff Loyd's claims are barred by the applicable statute of limitations or contractual limitations.

(5) Provide the name and, if known, the address and telephone number or each individual likely to have discoverable information that you may use to support your claims or defendants, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)

RESPONSE

See Attachment A.

(6) Provide the name of any person who may be used at trial to present evidence under rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R.Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B).

RESPONSE

Defendant PSIC has not decided whether or not to use an expert witness. Defendant PSIC will supplement this response if needed.

(7) Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defense unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)

RESPONSE

See Attachment C.

(8) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or

describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed.R.Civ.P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)

RESPONSE

Not applicable.

(9) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address and telephone number of such person or entity and describe in detail the basis of such liability.

RESPONSE

(10) Attach for inspection and copying as under Fed.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the

judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)

RESPONSE

See Attachment E.

DREW ECKL & FARNHAM, LLP

s/ Paul W. Burke

Paul W. Burke
Georgia Bar No. 095642

s/ Anthony C. Kalka

Anthony C. Kalka
Georgia Bar No. 406224
Attorneys for Defendant

880 W. Peachtree Street
P.O. Box 7600
Atlanta, Georgia 30357
404/885-1400

Counsel for Defendant certifies that this pleading complies with Local Rule 7.1D.

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5201-62017

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INSURANCE COMPANY,)	
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **DEFENDANT'S INITIAL DISCLOSURES** on all parties to this matter by depositing a true and correct copy of the document(s) described above with all referenced attachments in the United States mail, first class, addressed to counsel of record as follows:

Warren N. Sams III
THE SAMS LAW FIRM
127 Peachtree Street, N.E.,
Suite 1305
Atlanta, Georgia 30303

This 24th day of August, 2006.

s/ Paul W. Burke
Paul W. Burke

P.O. Box 7600
Atlanta, Georgia 30357
(404) 885-1400

ATTACHMENT A

Defendant Pacific Specialty Insurance Company's Witness List

1. Marlon Young, Senior Counsel, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge of claim and lawsuit;
2. Renella Ramey, Claims Examiner, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge of recorded statement of agent and claim;
3. Miranda Aumua, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge of policy;
4. Vivian Tafolla, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge of rescission of policy;
5. Sita Faasisila, Claims Examiner, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge of claim and damages;
6. Sydney Bauer, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge of recorded statement of Darrul Loyd;
7. Jeff Owens, Pacific Specialty Insurance Company, c/o Paul W. Burke and Anthony C. Kalka, Drew, Eckl & Farnham, LLP, 880 W. Peachtree St., P.O. Box 7600, Atlanta, GA 30357-0600; knowledge;
8. Frederick Montgomery, Montgomery Insurance Agency, 4411 Covington Highway Decatur, GA 30035, 404/284-1555, knowledge of application, policy, claim and lawsuit;
9. Darryl Loyd, 2195 Springdale Road, Atlanta, GA 30315, 404/684-6329; knowledge of application, policy, loss, damages, claim and lawsuit;
10. Raymond Bridges, Claimore, LLC, .O. Box 43221, Atlanta, GA 30336, 404/346-5691; knowledge of claim and damages;
11. Chris Ramsey; Owen Claims Services, Inc., 7025 Hodgson Memorial Drive Savannah, GA 30146, 770/815-2760; knowledge of claim, damages and re-inspection;

12. John LaRue, Owen Claims Services, Inc., 7025 Hodgson Memorial Drive Savannah, GA 30146, 770/815-2760; knowledge of claim and damages;
13. James C. Rawls, City of Atlanta Fire Department, knowledge of fire;
Unknown representatives of Atlanta Fire Department; knowledge of fire;
14. Unknown representative of Property Damage Appraisers, Inc., PDA , Oakland/East Bay, 925/274-1650; knowledge of inspection and/or appraisal;

Defendant PSIC reserves the right to amend its response as discovery has not commenced.

ATTACHMENT C

DEFENDANT'S EXHIBIT LIST

1. Pacific Specialty Insurance Company's policy.
2. Application
3. PSIC underwriting documents
4. 7/25/05 McGraw Insurance Services (PSIC) check to Darryl Loyd in the amount of \$553 re rescission of policy
5. 6/28/04 Montgomery Insurance Agency check to PSIC in the amount of \$553
6. 4/9/04 Florence, Robinson & Bennett check to Montgomery Insurance Agency in the amount of \$553 for Loyd's premium
7. PSIC Agent/Producer/Dealer Agreement with Frederick L. Montgomery dba Montgomery Insurance Agency
8. Recorded statement of Frederick Montgomery taken on 6/15/05
9. Affidavit of Frederick Lance Montgomery
10. 9/14/05 letter to Warren Sams from Marlon Young
11. 7/18/05 letter to Darryl Loyd from Marlon Young
12. Miscellaneous claim file documents
13. 6/6/05 letter to Darryl Loyd from Sita Faasisilia/PSIC
14. Claims Handling Checklist
15. Claim Reassignments, File Transfers Add a Suffix Worksheet
16. 6/13/05 letter to Darryl Loyd from Sita Faasisilia/PSIC
17. 5/10/05 letter to Darryl Loyd from Sitataila Tautuaa/PSIC
18. 7/12/05 Estimate by Owen Claim Services
19. 7/8/05 Short Form by Owen Claim Services
20. 7/8/05 Estimate by Owen Claim Services
21. Photos of dwelling

22. City of Atlanta Fire Department incident report
23. 8/22/05 letter to Marlon Young from Warren Sams
24. 7/6/05 letter to Renella Ramey from Raymond Bridges/Claimore
25. 6/23/05 letter to Renella Ramey from Raymond Bridges/Claimore
26. 6/23/05 Representation Authorization by Claimore
27. Recorded statement of Darryl Loyd taken on May 25
28. Miscellaneous mortgage documents
29. Property Damage Appraisers, Inc. appraisal documents
30. Defendant Pacific Specialty Insurance Company reserves the right to supplement this response as discovery proceeds.

ATTACHMENT E

See attached Pacific Specialty Insurance Company Insurance Policy.

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